

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

LUIS CARDENAS-ORNELAS,

Case No. 3:17-cv-00461-MMD-CLB

Petitioner,

ORDER

v.

RENEE BAKER, *et al.*,

Respondents.

This habeas matter is before the court on Petitioner Luis Cardenas-Ornelas's Letters re: Inability to Contact Counsel. (ECF Nos. 70, 71.)

The Court appointed David Neidert, Esq. to represent Cardenas-Ornelas in December 2017. (ECF No. 10.) Since then, Cardenas-Ornelas has filed at least eight *pro se* letters/motions stating that he could not get in touch with Neidert despite letters and phone calls or had not received copies of filings. (ECF Nos. 25, 27, 31, 50, 57, 58, 70, 71.) The Court twice ordered Neidert to respond to Cardenas-Ornelas's letters regarding communications and receiving copies. (ECF Nos. 28, 59.) Neidert responded accordingly. (ECF Nos. 32, 60.) The Court was satisfied with Neidert's responses and found no indication of a conflict between Neidert and Cardenas-Ornelas or that Neidert was unable to adequately represent Cardenas-Ornelas. (See, e.g., ECF No. 33.)

On October 8, 2020, Respondents filed an answer (ECF No. 69) to Cardenas-Ornelas's Amended Petition (ECF No. 11). Accordingly, any reply was due by November 9, 2020.¹ (See ECF No. 56.) No reply was filed, and the deadline expired without request for extension.

¹Under Rule 5(e) of the Rules Governing Section 2254 Cases in the United States District Courts, a "petitioner may file a reply to the respondent's answer," but it is not required.

1 In his most recent letters (ECF Nos. 70, 71), Cardenas-Ornelas contends that he
2 has not heard from Neidert since July 2020, despite mailing him multiple letters. Cardenas-
3 Ornelas further represents that prison restrictions have prevented him from calling Neidert
4 during business hours, Monday through Friday.

5 Cardenas-Ornelas is informed that the briefing period in this case has closed,
6 meaning that no additional filings are required. The Court will evaluate the merits of
7 Cardenas-Ornelas's Amended Petition (ECF No. 11) in due course. Given the Court's
8 heavy case load and the delays caused by the COVID-19 pandemic, a written decision
9 may take several months. Nevertheless, the Court will direct Neidert to move for leave to
10 file an untimely reply or file a notice stating that a reply was not warranted within 14 days.

11 It is therefore ordered that, by February 19, 2021, counsel David Neidert must file:
12 (1) a motion seeking leave to file an untimely reply; or (2) a notice stating that a reply was
13 not warranted.

14 DATED THIS 4th Day of February 2021.

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17 MIRANDA M. DU
18 CHIEF UNITED STATES DISTRICT JUDGE
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